

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRYAN S. CONWAY,)	4:07CV3066
)	
Plaintiff,)	MEMORANDUM
vs.)	AND ORDER
)	
BURLINGTON NORTHERN)	
SANTA FE RAILWAY COMPANY,)	
)	
Defendant.)	

Plaintiff has filed a motion for enlargement of time, until November 2, 2007, to respond to Defendant's motion for partial summary judgment. The response date currently is October 22, 2007. I routinely grant extensions of up to a month for filing responses to summary judgment motions, provided that trial is not imminent. The requested extension in this instance is only 11 days, and the trial is not scheduled to commence until March 24, 2008. The motion therefore will be granted.

It should be understood that this extension of time is not being granted based upon Plaintiff's alleged need to inspect a railroad car. I take no position on that issue. While Plaintiff's counsel represents that no response can be made to the summary judgment motion until the car has been produced by Defendant and an inspection report has been prepared by Plaintiff's expert, Federal Rule of Civil Procedure 56(e) requires the filing of affidavits to show the need for a discovery-based continuance.

Also, Plaintiff's counsel emailed Magistrate Judge Piester a letter brief in support of the motion, which was then forwarded to me after Judge Piester's recusal. Defendant's counsel appears to have been copied on the email, but our local rules specify that supporting briefs must be "filed and served contemporaneously with the motion." NECivR 7.1(a)(1)(A). Emailing a brief to chambers is not an acceptable practice in this court.

IT IS ORDERED that Plaintiff's motion for an enlargement of time (filing 32) is granted, as follows:

Plaintiff shall have until November 2, 2007, to respond to Defendant's motion for partial summary judgment (filing 27).

October 5, 2007.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge